



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Adjudicative COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,038	03/03/2004	Melissa K. Rath	ATMI-668	4823
24239	7599	01/12/2010		EXAMINER
MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709			ART UNIT	PAPER NUMBER

DATE MAILED: 01/12/2010

Please find below and/or attached an Office communication concerning this application or proceeding.

This is in response to Appeal Brief filed on 12/14/09.

I. The brief is incomplete because there is no argument for the double patenting rejection on the record since there is no terminal disclaimer is filed by applicant in order for an expert to timely check and approve. It is reasonable that applicant wants a quick patent. Applicant should provide an early, full and complete response in order for an early, full and complete consideration and determination of an allowability of the specification. This issue have been pointed out and set forth in the Office Action mailed on 11/20/09 after consulting, approving and authorizing by two Specialist Supervisory Primary Examiners with (1) Jill A. Warden (571-272-1267) and (2) Patrick J. Ryan (571-272-1292) on 11/12/09.

Applicant's arguments filed 12/14/09 have been fully considered but they are not persuasive.

"rejection of claims 1-2, 4-5, 10, 15, 19-20 and 56. Although claims 1, 4-6, 10, 15, 17-21, 53 and 56 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over co-pending application No. 10/389,214 in view of En et al. (U.S. Patent Application Publication No. 20040134682), this rejection is not the subject of the present appeal. As noted, the rejection is a provisional rejection and as such, applicants are under no obligation to respond to the rejection other than to acknowledge same."

Two Specialists and Supervisory Primary Examiners with (1) Jill A. Warden (571-272-1267) and (2) Patrick J. Ryan (571-272-1292) have been studied the issues of the provisional double patenting rejection and appeal brief. They approve and authorize a non-complied appeal brief Office Action. It will be repeated until applicant fully and completely filed an appeal brief with an argument for the double patenting rejection on the record or a terminal disclaimer for an expert to timely check and approve on the record in order for an early, full and complete consideration and determination of an allowability of the specification.

II. Sine the same issue as one of those in the Office Action mailed on 1/20/09 is remained and repeated, it is reasonable to set a fee to be started and counted on 12/21/09 (one month from 11/20/09 as set forth in the Office Action mailed on 11/20/09). No patentable value should be considered or given until a full and complete payment are on the record during the prosecution. After six months from 11/20/09 an abandonment note will be sent to applicant. It is now early and timely pointed out and set forth the record.

III. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose

telephone number is 571-272-1332. The examiner can normally be reached on 6:30AM-5:00PM, M-TH.

If attempts to reach the examiner by telephone are unsuccessful, one of the supervisors: Mark Huff can be reached on 571-272-1385 and Supervisors and Specialists Jill A. Warden (571-272-1267) and Patrick J. Ryan (571-272-1292). The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hoa V. Le/

Primary Examiner, Art Unit 1795            010810